

REMARKS

In view of the preceding amendments and the comments which follow, and pursuant to 37 CFR §1.116, reconsideration of the Final Rejection of February 1, 2005 is respectfully requested by Applicant.

Claims 42, 45, 46, and 59 have been amended. No new matter has been added, and a new search should not be required because of the amendments.

Claims 42-61 are currently pending in the application and stand finally rejected.

Rejections under 35 USC §103 (a)

Claims 42-61 have been rejected under 35 USC §103 (a) as being unpatentable over Haugen et al., U.S. patent application publication 2002/0078580 (hereinafter "Haugen"). The Examiner argues that the claims simply define triangulation height measuring with an intended use for "reflectometric examination" of "in particular a test strip for body fluids". It would have been obvious to use the device taught by Haugen to measure the distance to any target which is to be measured. Consequently, the measuring head used for at least the height profiling by triangulation in either reference would have been obvious in any environment as presently claimed. Haugen further discusses making return signals differentiable (para.0027). To that extent, the proposed broad techniques to make the signals differentiable by pulsing or time varying would have been obvious as these are well-known techniques in themselves given that they have not been presented as novel.

The examiner further argues that Applicant's arguments file December 3, 2004 are not persuasive, and he points out that Applicant has not argued with specific reference to the claim language as to how the apparatus of Haugen differs from the present application and claims.

Applicant respectfully traverses the examiner's rejection. The present invention as claimed in claim 1 is an analytical system for reflectometric analysis of an analyte in a sample liquid. This system comprises (a) a test strip with a target surface, (b) a measuring head, (c) an optical triangulation unit, and (d) a control device. The test strip with target surface is for application of the sample liquid. The measuring head comprises a source for radiating the sample and a detector for measuring radiation reflected by the sample. The triangulation unit detects the distance between the measuring head and the target and comprises a light emitter directed toward the target surface and a light receiver. The control device adjusts the distance between between the measuring head and the target to a predetermined value, thereby permitting accurate analysis of the analyte by the measuring head.

Haugen describes an automated system comprising a camera which performs the functions of fiducial imaging and height sensing via triangulation. The system is for obtaining distance to target information in an automated assembly or inspection machine. Haugen does not teach or suggest a measuring head comprising a source for radiating a sample liquid and a detector for measuring radiation, as required by Applicant's claimed invention. Furthermore, Haugen does not teach or suggest a control device for adjusting the distance between a measuring head and a target to a predetermined value, as further required by Applicant's claimed invention. Finally, Haugen does not teach or suggest, or provide the motivation to try, utilizing his camera system for height sensing in an analytical system for reflectometric analysis of an analyte in a sample liquid. There is no teaching in Haugen with regard to the problem of providing a constant measuring distance in reflectometric analysis.

For the above reasons, Applicant argues that the case for *prima facie* obviousness has not been made, and the examiner's reconsideration of the rejection of claims 42-61 under 35 USC §103 (a) is respectfully requested.

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Applicants submit that their application is now in condition for allowance, and favorable reconsideration of their application in light of the above remarks is respectfully requested. Allowance of claims 42-61 at an early date is earnestly solicited.

The Examiner is hereby authorized to charge any fees associated with this amendment to Deposit Account No. 02-2958. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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